



21 AUG 2006

Alan R. Loudermilk
LOUDERMILK & ASSOCIATES
Post Office Box 3607
Los Altos, CA 94024-0607

In re Application of	:	
GEORGES, Alain et al.	:	
Application No.: 10/541,640	:	
PCT No.: PCT/US03/40051	:	
Int. Filing Date: 11 November 2003	:	DECISION
Priority Date: 07 January 2003	:	
Attorney's Docket No.: DBT-006PCTUS1	:	
For: SYSTEMS AND METHODS FOR	:	
PORTABLE AUDIO SYNTHESIS	:	

This decision responds to "Response to Notification of Missing Requirements," filed with the United States Patent and Trademark Office on 06 February 2006.

BACKGROUND

On 11 November 2003, applicants filed international application PCT/US03/40051, claiming a priority date of 07 January 2003. The deadline for entry into the national stage in the United States was midnight 07 July 2005.

On 06 July 2005, applicants filed a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee.

On 01 December 2005, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 06 February 2006, applicants submitted a declaration of the inventors and the \$65 surcharge. Correspondence included a certificate of first class mailing indicating deposit on 01 February 2006.

DISCUSSION

Under 37 CFR 1.41(a)(4), the inventorship of the international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any change effected under PCT Rule 92*bis*. The record does indicate that any changes were made under PCT Rule 92*bis*.

The 06 February 2006 declaration indicates nine inventors, but the international application lists only five. Applicants indicate that the declaration is updating the inventorship based on the preliminary amendment. However, a preliminary amendment is not acted upon until applicants have entered the national phase by satisfying the requirements of 35 U.S.C. 371, including section (c)(4), requiring an oath or declaration in compliance with requirements.

That oath or declaration, as discussed above, must be executed by the inventors in the international application. As the 06 February 2006 declaration lists inventors other than those listed on the international application and is not accompanied by a grantable request under 37 CFR 1.497(d), it does not satisfy 35 U.S.C. 371(c)(4).

Further, the declaration is comprised of one page 1, 2 and 4, but two pages 3. While it is acceptable for inventors to execute separate copies of the declaration, the entire declaration as executed by the inventors must be submitted. It is not acceptable to piece together pages from separately executed declarations to create a single composite declaration.

CONCLUSION

An oath or declaration in compliance with 37 CFR 1.497(a)-(b) must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under §1.136(a) are permitted. **Failure to file a timely and proper reply will result in ABANDONMENT of the application as to the United States of America.**

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: (571) 272-3292
Facsimile: (571) 273-0459